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COMMISSION ON HUMAN RIGHTS

Forty-second session

Item 8 (a) of the provisional agenda

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; THE RIGHT TO DEVELOPMENT

Note by the Secretary-General

1. By resolution 1985/42 of 14 March 1985, the Commission on Human Rights invited the Directors-General of the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization to draw up and submit to the Commission at its forty-second session a concise report on the state of implementation of the rights to work, food, education and health, respectively, so that the Commission could undertake a global assessment of the progress being made and the problems being encountered in the implementation of these human rights.

INTERNATIONAL LABOUR ORGANISATION [Original: FRENCH]

[13 September 1985]

Report on the state of implementation of the right to work prepared by the International Labour Office in response to the request of the Commission on Human Rights in its resolution 1985/42

In the declaration of aims and objectives, the Constitution of the ILO recognizes the Organisation's responsibility to further among the nations of the world programmes which will achieve:

(a) full employment and the raising of standards of living;

(b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;

(c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement."

The preparation of international labour conventions and recommendations and the verification of their implementation constitute one of the principal means whereby ILO seeks to attain these objectives. These instruments include, by category:

A. Employment policy

The Employment Policy Convention (No. 122) and Recommendation (No. 122), 1964;

The Employment Policy (Supplementary Provisions) Recommendation (No. 169), 1984;

B. Vocational guidance and training:

Human Resources Development Convention (No. 142) and Recommendation (No. 150), 1975;

C. Manpower services:

Employment Service Convention (No. 88) and Recommendation (No. 83), 1948;

D. Freedom of choice of employment:

Forced Labour Convention (No. 29), 1930;

Abolition of Forced Labour Convention (No. 105), 1957;

E. Equality of opportunity and treatment for access to employment:

Discrimination (Employment and Occupation) Convention (No. 111), 1958;

The Migrant Workers (Supplementary Provisions) Convention (No. 143), 1957, and the Recommendation on Migrant Workers (No. 151), 1975, also contain provisions on this question;

F. Protection against unfair dismissal:

Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1966;

G. Protection against unemployment:

Unemployment Provision Convention (No. 44), 1934;

The Social Security (Minimum Standards) Convention (No. 102), 1952, and the above-mentioned instruments on termination of employment also contain provisions on unemployment benefits.

The provisions contained in these instruments are indicative of the various aspects of labour law and the range of policies, programmes, legal measures and administrative arrangements which the implementation of that law necessarily entails. Economic policies must be designed to guarantee sufficient productive employment opportunities for all those seeking employment; measures must be taken to afford every worker, without discrimination, every opportunity to acquire the necessary skills to occupy a post of his choice and to make use of his skills and aptitudes in his work; as far as possible, a balance must be achieved between labour supply and demand and machinery set up to inform those seeking employment of the employment opportunities open to them; the free choice of employment should not be impaired by coercion or arbitrary exclusion; provision should be made for protection against unemployment, both through measures to find new employment for the unemployed as rapidly as possible, and by ensuring an income during the period of forced unemployment.

The question of the right to work was considered by the International Labour Conference in the course of discussions culminating in the adoption of Recommendation No. 169, which supplemented earlier instruments on employment policy. In the preamble to this recommendation, it is recalled that the International Covenant on Economic, Social and Cultural Rights provides for the recognition of, inter alia, "the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts", and for the taking of appropriate steps to achieve progressively the full realization of, and to safeguard, this right.

Paragraph 1 of the recommendation states that the promotion of full, productive and freely chosen employment provided for in the Employment Policy Convention and Recommendation (No. 122) should be regarded as the means of achieving in practice the realization of the right to work. Paragraph 2 further states that full recognition by Members of the right to work should be linked with the implementation of economic and social policies, the purpose of which is the promotion of these objectives.

An ILO note on "The concept of the right to work in international law" and an article on "The concept of the right to work in international standards and the legislation of ILO member States" published in the International Labour Review (Vol. 124, No. 2, March-April 1985, pages 225 to 241) contain more detailed information on these questions.

ILO has also introduced various procedures for monitoring the implementation of international labour standards as a whole, including those relating to employment. In particular, Governments must, under the Constitution of the Organisation, report periodically on measures taken to implement conventions which they have ratified. The reports must also be communicated to national employers' and workers' organizations. The reports received are subjected to a technical examination by an independent body, the Committee of Experts on the Application of Conventions and Recommendations. They are then discussed at a tripartite meeting of a special committee established each year by the International Labour Conference.

In the general section of its report, the Committee of Experts regularly analyses the main trends in employment and makes recommendations on the types of policies and measures which it considers have or might have positive effects for employment.

The Committee of Experts has also been called upon to report on the progress achieved in implementing the provisions of the International Covenant on Economic, Social and Cultural Rights.

The Employment Policy Convention and Recommendation (No. 122) served as the starting point for the World Employment Programme launched by ILO in 1969 and involving large-scale research (see "Bibliography of Published Research of the World Employment Programme", English only, fifth edition, 1984, and supplement), as well as assistance to member States.

The aims of the programme are two-fold - to make the mass productive employment a major objective of national and international development policies and to assist member States in formulating and implementing action plans to achieve that aim. In 1976, ILO convened a World Employment Conference, which adopted a Declaration of Principles and a Programme of Action. 1/ All of this work served to highlight the links between the promotion of employment, the distribution of income and the international division of labour. It also helped to pinpoint the satisfaction of such basic needs as nutrition, housing, clothing, drinking water, sanitation, public transport, health services, education opportunities and cultural activities as priority objectives of national development policy, jointly with employment promotion. Subsequently, at its June 1979 session, the International Labour Conference considered the follow-up to the World Employment Conference, the conclusions of which it reaffirmed and up-dated. 2/ The practical activities of ILO in the area of employment continue to be guided by the decisions of the World Employment Conference and the International Labour Conference at its 1979 session.

Information on the practical activities of ILO in 1983 in the areas of employment and training can be found in document GB.228/OP/1/4 of the ILO Governing Body (paragraphs 170 to 230). In addition, the ILO Programme and Budget for 1986-1987, which has recently been adopted, attaches great importance to the major employment and training programmes (programmes 60 and 70).

In particular, in response to the increasingly serious concerns expressed by the International Labour Conference on the effect on employment of world economic trends and the national and international measures taken in order to adjust to them, a high-level meeting is planned for the near future to consider the impact of international trade, financial and monetary policies on employment and poverty. The idea behind the meeting is to bring together ministers or senior civil servants of ministries of labour, finance and planning, trade-union and employers' leaders and heads of secretariats or senior officials of such international agencies as the World Bank, the International Monetary Fund, GATT, UNCTAD and OECD. The theme of the meeting will be the promotion of employment,

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1/ See report of the Director-General to the Conference, entitled Employment, Growth and Basic Needs: A One-World Problem, Geneva, ILO, 1976, and the Declaration of Principles and Programme of Action adopted by the Conference (ILO Official Bulletin, volume LX, 1977, Series A, No. 2, page 82).

2/ See the resolution adopted on 27 June 1979 concerning follow-up to the World Employment Conference (ILO Official Bulletin, volume LXII, 1979, Series A, No. 2, page 95).

structural adjustments and equity in a changing world, and its purpose will be to launch a dialogue on general policy between international institutions responsible for economic and financial policies having a direct impact on levels of employment and income, and high-level decision-makers representing governments, employers and workers.

The scale of unemployment and underemployment continues to give cause for concern, despite the efforts made at the national and international levels. ILO is fully aware that it cannot solve a problem of such magnitude alone. Its role in this field is essentially to mobilize the political will to act in order to solve the problem, to draw attention to the nature and causes of the employment problem, and to assist in planning and implementation of general policies and programmes for the creation of short-term and long-term employment (approximately one-third of ILO's technical co-operation is aimed at this objective). Specifically in regard to the industrialized countries, the Organisation is active in four areas of special importance: unemployment among the young; duration of work and employment; international trade and adjustment policies; and new technologies and employment.